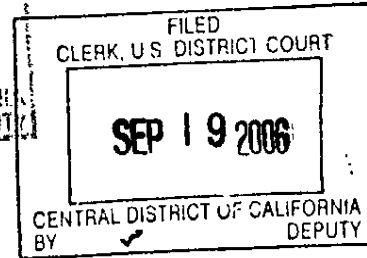
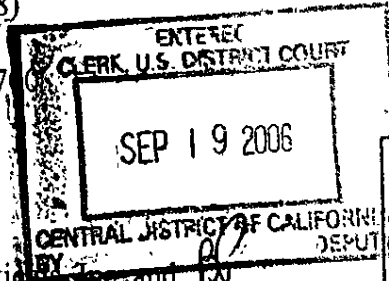


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**ORIGINAL**

Attorneys for DUSA Pharmaceuticals, Inc. and Queen's University at Kingston

**IN THE UNITED STATES DISTRICT COURT  
 FOR THE CENTRAL DISTRICT OF CALIFORNIA**

**DUSA PHARMACEUTICALS, INC., a  
 New Jersey corporation; and  
 QUEEN'S UNIVERSITY AT  
 KINGSTON, a Canadian academic  
 Organization**

**CASE NO. CV06-4310 SJO (CTx)**

**Plaintiffs,**

**v.**

**JULIAN OMIDI, M.D.,  
 a California citizen;  
 PACIFIC WEST DERMATOLOGY  
 a California corporation, d/b/a/  
 PACIFIC WEST DERMATOLOGY  
 AND LASER CENTER,**

**Defendants.**

Priority ☒  
 Send ☒  
 Enter ☒  
 Closed ☒  
 JS-5/JS-6 ☒  
 JS-2/JS-3 ☐  
 Scan Only ☐

**FAXED**

**CONSENT JUDGMENT**

Plaintiffs DUSA Pharmaceuticals, Inc.® ("DUSA") and Queen's University at Kingston ("Queen's University") (collectively "Plaintiffs") and Defendants Julian Omidi, M.D. ("Dr. Omidi") and Pacific West Dermatology d/b/a Pacific West Dermatology and Laser Center ("Pacific West Dermatology") (collectively "Defendants") having agreed to a settlement of the matters at issue between them, hereby agree and consent to judgment as follows:

- Plaintiffs' above-captioned complaint is a civil action with claims arising from and related to patent infringement of United States Patent Nos. 6,710,066 ("the '066 patent") and 5,955,490 ("the '490 patent") under 35 U.S.C. §271(a), and trademark infringement of the Levulan® trademark pursuant to § 32 and § 43(a) of the Lanham Act as well as California statutory and common law.

9

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 U.S. DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA  
 LOS ANGELES

1 2. Without admission of the claims and/or allegations contained in the above-captioned  
2 complaint, Defendants contend that any acts of patent infringement on their part were committed in  
3 misplaced reliance on representations by New England Compounding Pharmacy, Inc. that such  
4 conduct was not wrongful.

5 3. Defendants consent and agree to the terms of this Consent Judgment as fully set forth herein.

6  
7 4. Defendants consent and agree to be permanently enjoined from infringing United States  
8 Patent No. 6,710,066 during the life of that patent.

9  
10 5. Defendants consent and agree to be permanently enjoined from infringing United States  
11 Patent No. 5,955,490 during the life of that patent.

12 6. Defendants consent and agree to be permanently enjoined from infringing the Levulan®  
13 trademark, and in furtherance thereof will not use the Levulan® trademark in connection with the  
14 use, sale or advertisement of any product except for Levulan® brand aminolevulinic acid sold by  
15 DUSA.

16  
17 7. Defendants further consent and agree to make available for inspection by Plaintiffs  
18 Defendants' books and/or other records likely to establish whether Defendants are in compliance  
19 with the terms of the Consent Judgment as set forth herein. Defendants shall make these books  
20 and/or other records available for inspection by Plaintiffs on request no more often than once per  
21 year, with the expense of inspection to be borne by Plaintiffs and upon reasonable notice, unless  
22 such inspection reveals that Defendants are not in compliance with the consent judgment, in which  
23 case the expense will be borne by Defendants. Such inspection shall include appropriate safeguards  
24 for patient confidentiality.

25 8. Defendants consent and agree that Plaintiffs shall have the absolute right to enforce any and  
26 all terms of this Consent Judgment by and through any means permitted under statutory and/or  
27 common law.  
28

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9. Plaintiffs consent and agree to waive the entry of any monetary award in their favor and to forego reimbursement by Defendants for attorney fees and costs, provided that Defendants comply with each of the terms and conditions of this Consent Judgment as set forth herein.

10. Defendants also consent and agree that in the event Defendants fail to comply with any or all terms of this Consent Judgment, Plaintiffs shall have the absolute right to obtain from Defendants awards previously waived, and all fees and costs associated with bringing the above-captioned action and from enforcing compliance with this Consent Judgment.

**SO ORDERED:**

**BY THE COURT:**

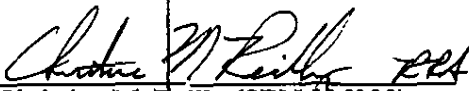
Dated: 9/15, 2006

J.

We consent to this Judgment:

PLAINTIFFS DUSA PHARMACEUTICALS, INC. and QUEEN'S UNIVERSITY AT KINGSTON

DEFENDANT JULIAN OMIDI, M.D.

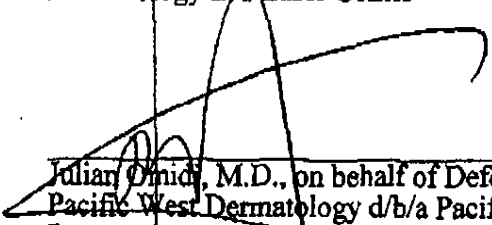
  
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Defendant Julian Omidi, M.D.

Dated: September 14, 2006

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Attorneys for Plaintiffs

DEFENDANT PACIFIC WEST  
DERMATOLOGY d/b/a Pacific West  
Dermatology and Laser Center

  
Julian Omidi, M.D., on behalf of Defendant  
Pacific West Dermatology d/b/a Pacific West  
Dermatology and Laser Center

Dated: September 14, 2006

Dated: September 14, 2006

REED SMITH LLP

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## PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 1901 Avenue of the Stars, Suite 700, Los Angeles, CA 90067. On September 14, 2006, I served the following document(s) by the method indicated below:

## CONSENT JUDGMENT

- ☐ by transmitting via facsimile on this date from fax number 310.734.5299 the document(s) listed above to the fax number(s) set forth below. The transmission was completed before 5:00 p.m. and was reported complete and without error. The transmission report, which is attached to this proof of service, was properly issued by the transmitting fax machine. Service by fax was made by agreement of the parties, confirmed in writing. The transmitting fax machine complies with Cal.R.Ct 2003(3).
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in this Declaration.
- ☐ by placing the document(s) listed above in a sealed envelope(s) and by causing personal delivery of the envelope(s) to the person(s) at the address(es) set forth below. A signed proof of service by the process server or delivery service will be filed shortly.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by placing the document(s) listed above in a sealed envelope(s) and consigning it to UPS for guaranteed delivery on the next business day following the date of consignment to the address(es) set forth below. A copy of the consignment slip is attached to this proof of service.

Julian Omid, M.D.  
1529 E. Palmdale Boulevard  
Suite 207  
Palmdale, CA 93550

Pacific West Dermatology and  
Laser Center  
1529 E. Palmdale Blvd., Suite 207  
Palmdale, CA 93550

1 I declare under penalty of perjury under the laws of the State of  
2 California and the United States of America that the above is true and correct.  
3 Executed on September 14, 2006, at Los Angeles, California.

4   
5 Lena Stevens

6 DOCSLA-15547000 1-LKING

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